

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 24, 2011

**SENATE BILL**

**No. 921**

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**Introduced by Senator Lieu**

February 18, 2011

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~~An act to add Section 230.1.5 to the Labor Code, relating to employment.~~ *An act to add Article 2.5 (commencing with Section 150) to Chapter 2 of Part 1 of Division 2 of the Military and Veterans Code, relating to the Military Department.*

LEGISLATIVE COUNSEL'S DIGEST

SB 921, as amended, Lieu. ~~Employment; employee leave.~~ *Military Department: Office of the Inspector General.*

*Existing law establishes in state government the Military Department, which includes the office of the Adjutant General, the State Military Reserve, the California Cadet Corp, and the Naval Militia. Existing law establishes various duties for these officers and entities.*

*This bill would establish the Office of the Inspector General within the Military Department. This bill would require the Governor to appoint the inspector general, subject to Senate confirmation, and would specify that the inspector general is independent of the chain of command of the Military Department and serves at the discretion of the Governor. This bill would require the inspector general to investigate complaints and allegations of wrongdoing by military personnel, as specified, and would require the inspector general to establish a toll-free public telephone number to receive these complaints and allegations. This bill would also require that disciplinary action be brought against a state officer or employee who intentionally retaliates against a person who made a complaint or allegation of*

wrongdoing to the inspector general, as provided, and would specify that these officers and employees may be liable for civil damages for these same actions.

~~Existing law provides that an employer who employs 25 or more employees may not discharge or retaliate against an employee who takes time off for specified activities or treatment as the result of domestic violence or sexual assault.~~

~~This bill would require the Department of Industrial Relations to create and an employer to display for employees to read specified information regarding the rights of workers to seek counseling or treatment for domestic abuse or sexual assault and redress against an employer who violates these rights.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Article 2.5 (commencing with Section 150) is  
2     added to Chapter 2 of Part 1 of Division 2 of the Military and  
3     Veterans Code, to read:

4  
5     Article 2.5. Office of the Inspector General for the Military  
6                                     Department  
7

8     150. For purposes of this article, the following terms have the  
9     following meanings:

10    (a) "Department" means the Military Department.

11    (b) "Office" means the Office of the Inspector General within  
12    the Military Department.

13    (c) "Inspector general" means the Inspector General for the  
14    Military Department.

15    150.10. (a) There is hereby created in the Military Department  
16    the Office of the Inspector General.

17    (b) The department shall, from the amount annually  
18    appropriated to it for purposes of this office, fund the position of  
19    inspector general and provide the office space and support  
20    personnel requested by the inspector general.

21    (c) The inspector general shall have access to all employees  
22    and documents of the department.

1     150.11. (a) *The inspector general shall meet the same*  
2 *qualifications established in this code for the Adjutant General.*

3     (b) *The inspector general is independent of the chain of*  
4 *command of the Military Department.*

5     (c) (1) *The Governor shall appoint the inspector general,*  
6 *subject to confirmation by the Senate.*

7     (2) *Upon confirmation by the Senate, the inspector general shall*  
8 *serve at the discretion of the Governor.*

9     (3) *The inspector general shall serve on state active duty at the*  
10 *grade of O-6.*

11     150.12. (a) *The inspector general may receive communications*  
12 *from any person, including, but not limited to, any member of the*  
13 *California National Guard, the State Military Reserve, and the*  
14 *Naval Militia.*

15     (b) *The inspector general shall establish a toll-free public*  
16 *telephone number to receive the complaints and allegations*  
17 *described in subdivision (a) of Section 150.13. The inspector*  
18 *general shall post this telephone number in clear view at every*  
19 *California National Guard armory, flight facility, airfield, or*  
20 *installation.*

21     150.13. (a) *At the discretion of the inspector general or, upon*  
22 *a written request by the Governor, a member of the California*  
23 *Legislature, the Adjutant General, or any member of the public,*  
24 *the inspector general shall investigate any of the following:*

25     (1) *Complaints that the Adjutant General or the Assistant*  
26 *Adjutant General has engaged in discrimination or retaliation for*  
27 *whistleblowing.*

28     (2) *Allegations of misconduct by the Adjutant General or the*  
29 *Assistant Adjutant General.*

30     (3) *Allegations of misconduct by any member of the California*  
31 *National Guard.*

32     (b) *If the inspector general conducts an investigation at the*  
33 *request of a member of the California Legislature, the inspector*  
34 *general shall submit to that member a report of his or her findings*  
35 *of that investigation.*

36     (c) (1) *A request described in subdivision (a) is not a public*  
37 *record and is not subject to disclosure under the California Public*  
38 *Records Act set forth in Chapter 3.5 (commencing with Section*  
39 *6250) of Division 7 of Title 1 of the Government Code.*

(2) Notwithstanding paragraph (1), the inspector general may, at his or her discretion, disclose to the Governor, a member of the California Legislature, or to a law enforcement agency the identity of a person making a written request or an allegation or complaint described in subdivision (a). The inspector general shall not disclose to any other person or entity the identity of a person making a written request or an allegation or complaint described in subdivision (a), unless the person making the request, allegation, or complaint has consented to the disclosure in writing.

(d) When deemed appropriate by the inspector general, the inspector general shall refer to the federal Inspector General of the Department of Defense any complaints and allegations pertaining to violations of federal military laws or regulations.

150.14. (a) Any state officer or employee who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against an employee of any state department, board, or authority for having disclosed what the employee, in good faith, believed to be a complaint or allegation described in subdivision (a) of Section 150.13 shall be disciplined by adverse action as provided in subdivision (a) of Section 19574 of the Government Code. If no adverse action is instituted by the appointing power, the State Personnel Board shall take adverse action against the officer or employee in the same manner as provided in Section 19583.5 of the Government Code.

(b) In addition to all other causes of action, penalties, or other remedies provided by law, any state officer or employee who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against an employee for having disclosed what the employee, in good faith, believed to be a complaint or allegation described in subdivision (a) of Section 150.13 shall be liable in an action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court if the acts of the offending party are proven to be malicious. If liability has been established, the injured party also shall be entitled to reasonable attorney's fees as provided by law.

(c) For purposes of this section "state officer" includes, but is not limited to, a member of the Military Department on state active duty and any officer who holds a state commission or appointment by the Governor.

1     ~~SECTION 1. Section 230.1.5 is added to the Labor Code, to~~  
2     ~~read:~~

3     ~~230.1.5. (a) The department shall create a poster that shall~~  
4     ~~include the following information:~~

5         ~~(1) Definitions of domestic violence and sexual assault.~~

6         ~~(2) Information regarding domestic violence and sexual assault~~  
7         ~~victim support resources.~~

8         ~~(3) Information regarding the right of an employee under~~  
9         ~~subdivision (c) of Section 230 to take time off from work to obtain~~  
10        ~~or attempt to obtain relief related to domestic violence or sexual~~  
11        ~~assault, including a temporary restraining order, restraining order,~~  
12        ~~or other injunctive relief, to help ensure the health, safety, or~~  
13        ~~welfare of the victim or his or her child.~~

14        ~~(4) Information regarding the right of an employee employed~~  
15        ~~by an employer with 25 or more employees under Section 230.1~~  
16        ~~to take time off from work to do any of the following:~~

17           ~~(A) To seek medical attention for injuries caused by domestic~~  
18           ~~violence or sexual assault.~~

19           ~~(B) To obtain services from a domestic violence shelter,~~  
20           ~~program, or rape crisis center as a result of domestic violence or~~  
21           ~~sexual assault.~~

22           ~~(C) To obtain psychological counseling related to an experience~~  
23           ~~of domestic violence or sexual assault.~~

24           ~~(D) To participate in safety planning and take other actions to~~  
25           ~~increase safety from future domestic violence or sexual assault,~~  
26           ~~including temporarily or permanently relocating.~~

27         ~~(5) Instructions on contacting the department and its Division~~  
28         ~~of Labor Standards Enforcement regarding violations of~~  
29         ~~subdivision (c) of Section 230 and Section 230.1.~~

30         ~~(6) Information regarding legal remedies and complaint~~  
31         ~~processes available through the division for violations of~~  
32         ~~subdivision (c) of Section 230 and Section 230.1.~~

33         ~~(7) Information regarding the right of an employee to file a~~  
34         ~~complaint pursuant to Section 98.7 if that employee has been~~  
35         ~~discriminated or retaliated against, including through discharge,~~  
36         ~~threat of discharge, demotion, or suspension, because the employee~~  
37         ~~has asserted his or her rights under subdivision (c) of Section 230~~  
38         ~~or Section 230.1.~~

1     ~~(b) The department shall make the poster available to employers~~  
2 ~~in print and online in English, Chinese, Korean, Spanish, Tagalog,~~  
3 ~~and Vietnamese.~~

4     ~~(c) An employer shall display a copy of the poster in each of~~  
5 ~~the available languages in a prominent and accessible location,~~  
6 ~~which may include restrooms, at its workplaces and jobsites. An~~  
7 ~~employer shall also provide an employee at the time of hire with~~  
8 ~~the name, address, and telephone number of the employer in~~  
9 ~~writing.~~

10    ~~(d) If an employer violates this section, the division shall issue~~  
11 ~~an order requiring the employer to comply with this section.~~

12    ~~(e) For purposes of this section, the following terms have the~~  
13 ~~following meanings:~~

14    ~~(1) “Domestic violence” means any of the types of abuse set~~  
15 ~~forth in Section 6211 of the Family Code.~~

16    ~~(2) “Sexual assault” means any of the crimes set forth in Section~~  
17 ~~261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269,~~  
18 ~~273.4, 285, 286, 288, 288a, 288.5, 289, or 311.4 of the Penal Code.~~